

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

DWIGHT OLIVIER,

Plaintiff,

-against-

ORDER

CV-05-4001(SJF)(RML)

ADVANCED STERILIZATION PRODUCTS
SERVICES, INC., ETHICON, INC., and
JOHNSON & JOHNSON COMPANY,

Defendants.

X

FEUERSTEIN, J.

On August 22, 2005, plaintiff Dwight Olivier (plaintiff) filed a complaint against defendants Advanced Sterilization Products Services, Inc., Ethicon, Inc. and Johnson & Johnson Company (defendants), invoking this Court's diversity of citizenship jurisdiction, 28 U.S.C. § 1332, and alleging claims for strict liability, misrepresentation, breach of warranty, negligence and fraud. By order dated December 12, 2007, I referred defendants' motion for summary judgment pursuant to Rule 56(c) of the Federal Rules of Civil Procedure to Magistrate Judge Robert M. Levy for a report and recommendation in accordance with 28 U.S.C. § 636(b). On June 11, 2008, Magistrate Judge Levy issued a Report and Recommendation (the Report) recommending that defendants' motion be granted and this case dismissed with prejudice. No objections have been filed to the Report. For the reasons stated herein, the Court adopts Magistrate Judge Levy's Report in its entirety.

I

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 Fed.Appx. 374 (2d Cir. 2005); Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II

Neither party has filed any objections to Magistrate Judge Levy's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts

and adopts Magistrate Judge Levy's Report as an Order of the Court. Defendants' motion for summary judgment is granted and the complaint is dismissed in its entirety with prejudice.

SO ORDERED.

SANDRA J. FEUERSTEIN
United States District Judge

Dated: July 1, 2008
Central Islip, New York

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